

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION

**George Stewart**, on behalf of himself  
and others similarly situated,

Plaintiff,

v.

**Texas Tech University Health Sciences  
Center**, et al.,

Defendants.

Case No. 5:23-cv-00007-H

**Plaintiff's Opposed Motion To Extend Deadlines To Serve Expert  
Designations And Reports**

On September 3, 2024, this Court issued an amended scheduling order in response to its rulings on the motions to dismiss and the amended complaint filed by Mr. Stewart on August 17, 2024. The amended scheduling order requires the parties to serve their initial expert designations and reports by August 20, 2024, with responsive expert designations and reports due on October 4, 2024. *See* Amended Scheduling Order, ECF No. 63. The amended scheduling order allows these deadlines to be altered through stipulation of the parties or by court order. *See id.* at ¶ 6.

Mr. Stewart has attempted to negotiate an extension of these deadlines with opposing counsel but the defendants are not willing to change the deadlines specified in the amended scheduling order. Mr. Stewart therefore respectfully asks this Court to reset the deadlines for expert designations and reports. Counsel did not prepare an expert report while the motions to dismiss were pending because they did not know which claims (if any) would survive. After this Court ruled on the motions to dismiss and after Mr. Stewart filed his amended complaint in response to the Court's ruling, the Court issued its amended scheduling order on September 3, 2024, which required

that the initial expert designations and reports be filed by August 20, 2024—14 days before the new scheduling order had issued, and only three days after Mr. Stewart had filed his amended complaint that dropped all claims against the UT defendants.

Mr. Stewart respectfully asks the Court to reset the deadlines for expert designations and reports in light of the amended complaint of August 17, 2024, and the amended scheduling order of September 3, 2024. Mr. Stewart proposes that the Court establish a deadline of November 13, 2024, for the parties to serve their initial expert designations and reports, with responsive expert designations and reports due by December 13, 2024.

### CONCLUSION

The motion to extend the deadlines to serve expert designations and reports should be granted.

Respectfully submitted.

GENE P. HAMILTON  
Virginia Bar No. 80434  
Vice-President and General Counsel  
REED D. RUBINSTEIN\*  
D.C. Bar No. 400153  
ANDREW J. BLOCK\*  
Virginia Bar No. 91537  
NICHOLAS R. BARRY\*  
Tennessee Bar No. 031963  
America First Legal Foundation  
300 Independence Avenue SE  
Washington, DC 20003  
(202) 964-3721  
gene.hamilton@aflegal.org  
reed.rubinstein@aflegal.org  
andrew.block@aflegal.org  
nicholas.barry@aflegal.org

/s/ Jonathan F. Mitchell  
JONATHAN F. MITCHELL  
Texas Bar No. 24075463  
Mitchell Law PLLC  
111 Congress Avenue, Suite 400  
Austin, Texas 78701  
(512) 686-3940 (phone)  
(512) 686-3941 (fax)  
jonathan@mitchell.law

\* admitted *pro hac vice*

Dated: October 15, 2024

*Counsel for Plaintiff*

## CERTIFICATE OF CONFERENCE

I certify that I have conferred with Joseph Keeney, counsel for the defendants, and he informed me that his clients are opposed to this motion.

/s/ Jonathan F. Mitchell  
JONATHAN F. MITCHELL  
*Counsel for Plaintiff*

## CERTIFICATE OF SERVICE

I certify that on October 15, 2024, I served this document through CM/ECF  
upon:

BENJAMIN S. WALTON  
JOSEPH KEENEY  
Assistant Attorneys General  
General Litigation Division  
Post Office Box 12548  
Austin, Texas 78711  
(512) 463-2120 (phone)  
(512) 320-0667 (fax)  
benjamin.walton@oag.texas.gov  
joseph.keeney@oag.texas.gov

*Counsel for the Defendants*

/s/ Jonathan F. Mitchell  
JONATHAN F. MITCHELL  
*Counsel for Plaintiff*